

Chapter 158

INTOXICATING LIQUOR AND FERMENTED MALT BEVERAGES

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[HISTORY: Adopted by the Common Council of the City of Franklin 8-5-1997 by Ord. No. 97-1461 as Sec. 13.01 of the 1997 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Tavern amusement licenses — See § 121-10.	Public nuisances offending morals and decency — See Ch. 178, § 178-4.
Food and drink establishments — See Ch. 138.	Orderly conduct — See Ch. 183, Art. II.
License and permits — See Ch. 169.	St. Martins Fair — See Ch. 203.

§ 158-1. State statutes adopted.

The provisions of Ch. 125, Wis. Stats., enumerated below and as amended from time to time, exclusive of any provisions relating to any penalty to be imposed or the punishment for the violation of such statutes, unless otherwise indicated, are hereby adopted by reference and made a part of this chapter:

GENERAL PROVISIONS

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|-------------|---|
| 125.02 | Definition |
| 125.04 | General licensing requirements |
| 125.07 | Underage and intoxicated persons; presence on licensed premises; possession; penalties ¹ |
| 125.09 | General restrictions |
| 125.12(1) | Revocations, suspensions, refusals to issue or |
| (2) and (3) | renew |
| 125.13 | Report of suspension, revocation or imposition of penalty |
| 125.14 | Enforcement provisions ² |

¹ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

² Editor's Note: The entry for § 125.20(1), pertaining to coin-operated machines, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

FERMENTED MALT BEVERAGES

125.25	Class "A" licenses
125.26	Class "B" licenses
125.28	Wholesalers' licenses
125.31	Multiple licenses and permits; brewers
125.32	General restrictions and requirements
125.33	Restrictions on dealings between brewers, wholesalers and retailers
125.68	General restrictions and requirements

INTOXICATING LIQUOR

125.51	Retail licenses and permits
125.52	Manufacturers' and rectifiers' permits
125.53	Winery permit
125.54	Wholesalers' permits
125.55	Combination permits
125.56	Sacramental wine
125.67	Evading provisions of law by giving away intoxicating liquor; penalties
125.68	General restrictions and requirements

§ 158-2. Application.

- A. Requirements. Applicants for licenses shall comply with the requirements of § 125.04, Wis. Stats., adopted herein by reference.
- B. License investigation. The City Clerk shall notify the Health Officer, Chief of Police, Fire Chief and Building Inspector, Electrical Inspector and Plumbing Inspector of all license and permit applications, and these officials shall inspect or cause to be inspected each application and premises to determine whether the applicant and the premises sought to be licensed comply with the regulations, ordinances and laws applicable thereto and the applicant's fitness for the trust to be imposed. These officials shall furnish to the Council, in writing, the information derived from such investigation.

§ 158-3. License fees.

There shall be the following classes and denominations of licenses which, when issued by the City Clerk under the authority of the City Council, after payment of the fee specified in Chapter 169, Licenses and Permits, shall permit the holder to sell, deal or traffic in intoxicating liquor or fermented malt beverages as provided in §§ 125.17, 125.26 and 125.51, Wis. Stats. The fees required under this section shall be deposited with the City Clerk at the time of application and shall be refunded to the applicant if the application is denied:

- A. Class A Fermented Malt Beverage Retailer's License.
- B. Class B Fermented Malt Beverage Retailer's License.
- C. Wholesalers' Fermented Malt Beverage License.

- D. Picnic License. A single meeting license may be issued to eligible organizations pursuant to § 125.26(6), Wis. Stats.
- E. Retail Class A Liquor License.
- F. Retail Class B Liquor License.
- G. Country Clubs.
- H. Operators' License.
- I. Class B Picnic Retail Wine License. A Class B Picnic Retail Wine License shall be available to a church or organization associated with a church if the church or organization has been in existence for at least six months prior to the date of the application for the sale of wine, consisting of not more than 6% alcohol by volume, at a picnic, meeting or other gathering specified on the license.¹
- J. Class C Retail Wine License. A Class C license authorizes the retail sale of wine by the glass or in opened original container for consumption on the premises where sold.²
- K. Initial Reserve Class B license pursuant to § 125.51(3)(e)2., Wis. Stats. [Added 5-6-2003 by Ord. No. 2003-1748]

§ 158-4. Consent to inspection of premises.

A condition of any license issued hereunder shall be that the licensed premises may be entered and inspected at any reasonable hour by any police officer of the city, without any warrant, and the application for a license hereunder shall be deemed a consent to this provision. Any refusal to permit such inspection may be cause for revocation of any license issued hereunder and shall be deemed a violation of this chapter.

§ 158-5. Operators' renewal license.

All operators' licenses subject to renewal shall be issued by the City Clerk upon application. If such operator has been convicted of a misdemeanor or a felony substantially relating to the activity being licensed, the Council may issue or deny such renewal license.

§ 158-6. Conditions of license.

- A. No Class "B" licensee shall employ any underage person, but this shall not apply to hotels, restaurants or combination grocery stores and taverns where not more than 20% of the gross revenue is derived from the sale of intoxicating liquors.
- B. No club shall sell intoxicating liquors except to members and guests invited by members.

¹ Editor's Note: Original Subsection 13.01(3)(j), which immediately followed this subsection, was deleted 12-15-1998 by Ord. No. 98-1526.

² Editor's Note: Original Section 13.01(4), which immediately followed this subsection, was repealed by Ord. No. 94-1300.

- C. No Class "A" or "B" licensee shall sell or offer to sell any intoxicating liquor to any person on credit excepting credit extended by a hotel to a resident guest or a club to a bona fide member and by grocers and druggists who maintain a credit system in connection with other purchases as well. No licensee shall sell intoxicating liquor to any person on a passbook or store order, or receive from any person any goods, wares, merchandise or other articles in exchange for intoxicating liquors.
- D. Each licensed premises shall, at all times, be conducted in an orderly manner, and no disorderly, riotous or indecent conduct shall be allowed at any time on licensed premises.
- E. No gambling or game of chance of any sort shall be permitted in any form upon the licensed premises. Slot machines or any device of chance are prohibited and shall not be kept upon the premises.
- F. Nude dancing in licensed establishments prohibited. **[Amended 11-2-1998 by Ord. No. 98-1515]**
- (1) It is unlawful for any person to perform or engage in, or for any licensee or manager or agent of the licensee to permit any person, employee, entertainer or patron to perform or engage in, any live act, demonstrations, dance or exhibition on the premises of a licensed establishment which:
 - (a) Shows his or her genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering; or
 - (b) Shows any portion of the female breast below a point immediately above the top of the areola; or
 - (c) Shows the covered male genitals in a discernably turgid state.
 - (2) Exemptions. The provisions of this subsection do not apply to the following licensed establishments: theaters, performing arts centers, civic centers and dinner theaters where live dance, ballet, music and dramatic performances of serious artistic merit are offered on a regular basis and in which the predominant business or attraction is not the offering to customers of entertainment which is intended to provide sexual stimulation or sexual gratification to such customers and where the establishment is not distinguished by an emphasis on, or the advertising or promotion of, employees engaging in nude erotic dancing.
 - (3) Definitions. For purposes of this subsection, the term "licensed establishment" means any establishment licensed by the Common Council to sell alcohol beverages pursuant to this chapter. The term "licensee" means the holder of a retail "Class A," "Class B," Class "A," Class "B" or "Class C" license granted by the Common Council.

§ 158-7. Underage tavern license.

- A. License created. There is hereby created a license to be called "underage tavern license," which may be granted only to holders of Class B licenses. No Class B license holder may allow underage persons on the premises without first obtaining an underage tavern license.

- B. Application. Any holder of a Class B license who wishes to allow underage persons on the premises shall make application to the City Clerk on forms provided by the City Clerk. The City Clerk is authorized to consult with the License Committee and devise and revise from time to time an application form. Each application shall be submitted to the City Clerk at least 15 days prior to issuance. Notice of the application shall be published as a Class I notice. The License Committee shall consider the application and the City Council shall authorize the City Clerk to issue the license.
- C. Fee. A license fee of \$120 and publication charge of \$10 shall accompany each application. If the license is not granted, the license fee shall be refunded.
- D. Terms and conditions of license.

(Cont'd on page 15805)

- (1) Period. The license is for a period of one year or part thereof and shall expire on June 30 following its issuance.
- (2) Consent to inspection. All license holders shall consent to warrantless inspection of premises and consent forms at any reasonable hour by police officers.
- (3) Number of events. The license allows the holder to hold a maximum of one event per month at which underage persons are allowed to be on the premises.
- (4) Notification. The holder of the license shall notify, in writing, the Police Department and City Clerk at least 48 hours in advance of the dates and hours when underage persons will be allowed on the premises and the names and addresses of all adult supervisors.
- (5) Supervision. No license holder may hold an event unless there is at least one adult supervisor 25 years of age or older for every 25 underage persons on the premises.
- (6) Hours. The license holder shall not allow any person on the premises in violation of the curfew ordinance.⁴ No event shall be held except between the hours of 4:00 p.m. and 11:00 p.m.
- (7) Ages. No license holder shall allow any person under age 15 or over age 20 upon the premises during an event, except for the license holder, employees of the license holder and supervisors. With the above exceptions, no person not age 15 to 20 may be on the premises during an event.
- (8) Parental consent. No license holder shall allow any person under age 18 to be on the premises without the written, signed and dated consent of a parent or guardian, with address and phone number on file on the premises.
- (9) Gambling. No gambling or game of chance shall be permitted on the licensed premises.
- (10) Disorderly conduct. The licensee shall not allow any person to engage in disorderly, riotous or indecent behavior on the premises.⁵
- (11) No alcohol consumed. No alcohol may be consumed, sold or given away to any person, regardless of age, during events.

E. Definitions. As used in this section, the following terms shall have the meanings indicated:

EVENT — A period of time within a continuous twenty-four-hour period when underage persons are allowed on a premises to which a Class B license and an underage tavern license have been issued.

PREMISES — Both the inside of the building and so much of the outside of the building as is owned or occupied by the license holder.

F. Penalty.

⁴ Editor's Note: See Ch. 183, Orderly Conduct, Art. XII, Minors.

⁵ Editor's Note: See Ch. 183, Orderly Conduct.

- (1) Revocation or suspension. Section 125.12, Wis. Stats. shall apply to proceedings to revoke or suspend underage tavern licenses. Licenses may be revoked or suspended for violation of the terms and conditions of the license or for other cause. The City Council may initiate the procedure on its own motion.
- (2) Other. Any person who violates any provision of this section is subject to a penalty as provided in Chapter 1, General Provisions, § 1-19.

§ 158-8. Closing hours.

- A. Indoor sales. Closing hours during which no patron or guest shall be permitted to enter or remain on a Class B licensed premises shall be as follows:
 - (1) On Saturdays and Sundays, between 2:30 a.m. and 6:00 a.m.
 - (2) On weekdays, between 2:00 a.m. and 6:00 a.m.
 - (3) On January 1 of each year, no closing.
- B. Outdoor sales.
 - (1) No holder of a Class B license may sell any alcohol beverage anytime between the hours of 11:00 p.m. and 10:00 a.m. the following day in any place outdoors or in any building not confined by four walls.
 - (2) Any holder of a Class B license authorized to sell beverages outdoors or in any building not confined by four walls may sell such alcohol beverages only on days when another activity is also taking place (e.g., automobile racing, baseball games, etc.). Hales Corners Speedway and Hardhitters' Park are declared to be legally nonconforming licenses and may not expand or be discontinued for longer than 12 months. Failure to comply with these rules shall subject the licenses to nonrenewal for outdoor sales and consumption.
 - (3) No person may consume any alcohol beverage between the hours of 11:00 p.m. and 10:00 a.m. in any place open to the public which is not inside a building.
- C. Class A Retail and Class A Combination Licenses; sale for consumption away from Class B premises. Class A premises and premises operating under a Class A Combination License may remain open for the conduct of their regular business but may not sell fermented malt beverages between 9:00 p.m. and 8:00 a.m. Between 9:00 p.m. and 6:00 a.m., no person may sell fermented malt beverages on Class B premises in an original unopened package, container or bottle or for consumption away from the premises.

§ 158-9. Revocation and suspension of licenses.

- A. Procedure. Except as hereinafter provided, § 125.12, Wis. Stats. shall apply to proceedings for the revocation or suspension of all licenses or permits granted under this chapter. Revocation or suspension proceedings may be instituted by the Council upon its own motion by adoption of a resolution.

- B. Repossession of license or permit. Whenever any license or permit under this chapter shall be revoked or suspended by the Council or action of any court, the Clerk shall notify the licensee or permittee of such suspension or revocation and shall notify the Chief of Police, who shall take physical possession of the license or permit wherever it may be found and file it in the Clerk's office.
- C. Effect of revocation of license. No license shall be issued to any person who has had a license issued pursuant to this chapter revoked within 12 months prior to application.
- D. Hearing. The City Council shall not refuse to renew an alcohol beverage license for nonpayment of taxes, charges, assessments or forfeitures or compliance with building, plumbing, electrical, zoning and fire codes without first giving the applicant notice and a hearing as set forth in § 125.12, Wis. Stats., as amended from time to time.

§ 158-10. Violations and penalties.

In addition to the suspension or revocation of any license or permit granted under this chapter, any person who shall violate any provision of this chapter shall be subject to a penalty as provided in Chapter 1, General Provisions, § 1-19.